

U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

ESTATE OF JACK C. LUNNEEN, deceased,  
by Thomas E. Lunneen, personal representative,

Plaintiff,

v

BERRIEN SPRINGS, a village, ORONOKO  
TOWNSHIP, a municipal corporation, BERRIEN  
COUNTY, a municipal corporation, JAMES WYSS,  
in his individual capacity and in his official capacity  
as officer for Berrien Springs-Oronoko Township  
Police Department, ROGER JOHNSON, in his  
individual capacity and in his official capacity as a  
deputy for the Berrien County Sheriff's Department,  
L. PAUL BAILEY, in his individual capacity and in  
his official capacity as Sheriff of the Berrien County  
Sheriff's Department, PAUL E. TOLIVER, in his  
individual capacity and in his official capacity as  
Chief of Police for the Berrien Springs Oronoko  
Township Police Department, and JOHN DOES 1–  
10, *in their individual and official capacities*,

Defendants.

CASE NO. 1:20-cv-01007

HON. HALA Y. JARBOU

MAG. JUDGE PHILLIP J. GREEN

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**NOTICE OF APPEAL**

NOW COMES Defendant JAMES WYSS, by and through his attorneys, McGRAW MORRIS P.C., by G. GUS MORRIS and ROBERT W. VANWERT, and asserts his interlocutory appeal as of right pursuant to *Mitchell v Forsyth*, 472 U.S. 511 (1985) from the District Court's Opinion and Order Denying in part Defendants' Motion for Summary Judgment dated November 1, 2022 [ECF No. 164, 165] based on qualified immunity against the claims of Plaintiff; the decision to allow Plaintiff to raise a new theory of relief on its claim of gross negligence; and the district court's denial of summary judgment on Plaintiff's gross negligence claim.

Respectfully submitted,

**McGRAW MORRIS P.C.**

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Dated: November 11, 2022

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 11, 2022, I caused to be electronically filed the foregoing NOTICE OF APPEAL and CERTIFICATE OF SERVICE, with the Clerk of the Court using the ECF system that will send notification of such filing to all attorneys of record at the email addresses denoted on the Electronic Mail Notice List.

Respectfully submitted,

**McGRAW MORRIS P.C.**

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